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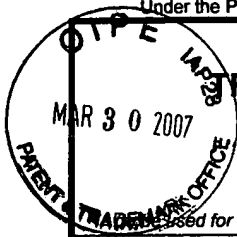
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FORM

Total Number of Pages in This Submission	Application Number	10/081,419
	Filing Date	Feb 22, 2002
	First Named Inventor	Williams, Dwight P.
	Art Unit	3752
	Examiner Name	Ganey
Attorney Docket Number		50051

ENCLOSURES (Check all that apply)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Williams

Application No.: 10/081,419

Filed: 2/22/2002

Title: Around-the-Pump Additive System for Industrial Scale Hazards

Attorney Docket No.: 50051

Art Unit:
3752Examiner:
GaneyCommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450REPLY TO EXAMINER'S ANSWER of 1/30/07

In Section "(9) Grounds of Rejection" the paragraph found on page 7 lines 3 - 10, on page 8 lines 15 - 21 and on page 9 lines 15 - 21 is new. All of section "(10) Response to Argument," pages 10 through 14, is new.

Re: Status of Claims

The Examiner is correct in the re-statement of the status of the claims. While claims 1-17 are pending, claims 3, 4, 10-12 and 14 were withdrawn; only claims 1, 2, 5-9, 13 and 15-17 are rejected and subject to the present appeal. Applicant traverses the Examiner's statement on page 2, lines 17-18, that claims 1 and 17 are independent "apparatus" claims. Claims 1 and 17 are independent method claims as evidenced by their language. The Response to Argument section, ANS page 10 line 1 to page 11 line 2, states that the preamble of claims 1 and 17 "dictates" that the claims are apparatus claims, and further that the preamble uses "a positively recited apparatus type preamble." Responding, attached find a further dictionary definition of "system," that given by "Ask Jeeves," of which judicial notice may be taken. The eighth meaning of "system" therein is "an organized and coordinated method." The directory instructs one to seek synonyms "at method." (Notwithstanding, applicant is willing to change "system" to "method" in the preamble of claims 1 and 17. Applicant presented that proposed amendment in response to the first objection of this matter by the Examiner. The Examiner, however, has not entered the amendment.) In response to the Examiner's new comments about "gerunds," pages 10-11 of the Response to Argument Section, applicant attaches page 73 from Landis on Claim Drafting, second edition. Judicial notice could be taken of Landis's point. Landis points out that method steps "should usually be verbal gerundial phrases, introduced by a gerund or a verbal noun (the '-ing' form of a verb.)"

Re: Response to Argument Section, Answer, page 12 line 9 – page 13, line 4 - Examiner's Comments re Hollan

Applicant's Point 1

As is standard for “fire fighting” pumps, in accordance with the teaching of the Specification and the standards of the NFPA 1901 Standard for Automated Fire Apparatus, submitted and of record, one of skill in the art would expect the “fire fighting” pumps of Hollan and Williams to be provided with a special pony 2.5” inlet. See Spec page 1 lines 30-37; page 2 lines 6-8. The Examiner offers no basis for the assertion that the “fire fighting” pumps of Hollan and Williams would not be expected to be provided with the special pony inlet, as specified in NFPA 1901. (The same applies to Worthington and Gagliardo, also applications in the “fire fighting” industry.)

Applicant's Point 2

Only the benefit of hindsight, informed by the applicant's invention disclosure, teaches that a hypothetical Hollan “fitting,” posted to exist at the location where Hollan's line 29 is drawn to connect with line 31 in Hollan's sole Figure, “could be” further located upstream of Hollan's water manifold inlet, and Hollan could employ a standard pump, without affecting the operation of Hollan's apparatus. It is the instant invention disclosure that provides the Examiner with the conviction that such would work. No motivation or precedent for making such alteration or interpretation of Hollan is provided. No evidence is offered that such should be expected to function acceptably.

Re: Response to Argument Section, Answer Page 13 line 5 – page 14 line 10 - Examiner's Comments re Gagliardo.

Applicant's Point 1

The only situation or context cited by Gagliardo in which his problem arises is the case of a crash truck used at an airport. (See Gagliardo column 1, lines 49-51.) The instant specification points out that “fire fighting” apparatus uses “fire fighting” pumps. Spec page 1 line 30 – page 2 line 8. As per the Specification and section 16.6.3.1 of NFPA 1901 Standards for Automated Fire Apparatus, fire fighting pumps are to have a pony (2.5”) inlet. (See applicant's Figure 1 re prior art “fire fighting” pumps.) See Spec page 1 line 30 to page 2 line 8. There is no basis, thus, for “assuming” that the pump in Gagliardo thus is a “standard pump” as opposed to a “fire fighting” pump. To the contrary there is basis for assuming that Gagliardo's pump is a “firefighting pump” and has a pony inlet and pony outlet for attaching Gagliardo's recirculation line 22, as per Gagliardo's specification.

Applicant's Point 2

Gagliardo states, “The pump has an inlet 12 that is connected to a source 13 of primary fluid; ... Recirculation branch 22 joins the outlet 14 of the pump to the inlet 12” (See column 2 lines 53-54 and


63-64.) Gagliardo further states, "Figure 1 is a schematic view of a proportioning system incorporating the principles of the present invention [the present invention being a proportioning system]." (See column 2 lines 39-40.) Interpreting Gagliardo's "schematic" Figure 1, containing simplified vertical and horizontal lines, to mean that recirculation branch 22 literally intersects a water line at a hypothetical "fitting," which hypothetical fitting is also "at least initially separate from the pump," and "on a suction side of the pump upstream of the pump water manifold inlet," is unjustified. Such interpretation places undue reliance on, and unjustifiably extrapolates from, a portion of Gagliardo's "schematic" figure, unrelated, in fact, to Gagliardo's "proportioner" invention.

Applicant's Point 3

The Examiner proposes that Gagliardo's pump inherently and necessarily has a (non-indicated) water manifold inlet and inherently and necessarily has a (non-indicated) fitting joining recirculation line 22 to inlet 12. Even were one to assume so for purposes of argument, Gagliardo still does not inherently and necessarily disclose that the hypothetical fitting is upstream of the hypothetical water manifold inlet. Only the instant invention so teaches.

Respectfully Submitted,

3/30/7
Date


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Dictionary

Thesaurus

sys·tem (sĭs'təm)^ˈ

[Late Latin *systema*, *systemat-*, from Greek *sustēma*, from *sunistanai*, to combine, *sun-*, syn-, + *histanai*, set up, establish.]

noun

1. A group of interacting, interrelated, or interdependent elements forming a complex whole.
2. A functionally related group of elements, especially:
 - a. The human body regarded as a functional physiological unit.
 - b. An organism as a whole, especially with regard to its vital processes or functions.
 - c. A group of physiologically or anatomically complementary organs or parts: *the nervous system*; *the skeletal system*.
 - d. A group of interacting mechanical or electrical components.
 - e. A network of structures and channels, as for communication, travel, or distribution.
 - f. A network of related computer software, hardware, and data transmission devices.
3. An organized set of interrelated ideas or principles.
4. A social, economic, or political organizational form.
5. A naturally occurring group of objects or phenomena: *the solar system*.
6. A set of objects or phenomena grouped together for classification or analysis.
7. A condition of harmonious, orderly interaction.
8. An organized and coordinated method; a procedure. See synonyms at [method](#).
9. The prevailing social order; the establishment. Used with *the*: *You can't beat the system*.

Synonyms

entity
integral
sum
totality
whole
complex
method
order
orderliness
organization
pattern
plan
systematization
systemization
fashion
manner
method
mode
modus operandi
style

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MECHANICS OF PATENT CLAIM DRAFTING

Second Edition

Sixth Printing

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With the Collaboration of
John D. Kaufmann, Bryan W. Sheffield
and Myron Cohen

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Practising Law Institute
New York City

Section 34—Elements of Method Claims

Generally, the verbs in a method claim need *not* be phrased in any particular voice or tense as long as there is no ambiguity and the requirements of Section 112 are met.* Nevertheless, it must be remembered that the elements of a method claim are method *steps*, which should usually be verbal (gerundial) phrases, introduced by a gerund or verbal noun (the "-ing" form of a verb), such as (the gerunds are italicized):

- (a) *reciprocating* the guide** . . .
- (b) *punching* a series of holes . . .
- (c) *impressing* a signal . . .
- (d) *coating* the sheet with an adhesive . . .
- (e) *heating* the mixture to a temperature of . . .
- (f) *separating* the alcohol from the aqueous solution . . .
- (g) *distilling* the aqueous solution to separate the alcohol therefrom . . .
- (h) *fractionally crystallizing* the aqueous solution to separate the alcohol therefrom . . .

The last three steps ("separating," on the one hand, and "distilling" or "crystallizing," on the other) illustrate, respectively, a generic and two-species method steps (see Section 55).

One should be aware that as to the format of step (g), above, examiners sometimes express a preference for language similar to the following: "(g') *separating* the alcohol from the aqueous solution *by distilling* the solution. . . ." The argument favoring such wording is along these lines: "Regarding the phrase 'distilling . . . to separate,' [as in step (g)] one *could* distill the solution, yet never achieve alcohol separation. Such separation being the ultimate goal of the step, it (separation) should be *more positively recited* by being made the introductory gerund of the clause ['separating . . . by distilling,' as in step (g')] which sets forth the step."

*Ex parte Lewin, 154 USPQ 487 (Bd. App. 1966).

**As in apparatus claims (Section 20), antecedents are important. Support for "the guide" must have been provided in a previous clause of the claim.

apply also to method claims, mechanical or electrical (e.g., genus/species therein must find elements may be used; order is also necessary clauses may be

at the "elements" of parts, are, and must be formed upon an article of transformation or material substance to a method claim—especially true when the line or apparatus.* single-step method,** needed, as noted in Section 34, involve combinations of elements. Of course, the method claim what the claim, which is the basic

announced a liberal class of claims of various types to the examiner to pound in that case).

36. or more acts or steps chemical substance to arts. The elements s, expressed as verb

Q 673 (1972) (discussed

1971); Ex parte Britton, 32 USPQ 545 (Bd. App. 1971).

o claim in apparatus)

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